

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WAYNE VAN SCOY,)	
)	
Plaintiff and)	
Counterclaim-Defendant,)	
)	
v.)	
)	
VAN SCOY DIAMOND MINE OF)	Case No. 05-108 (KAJ)
DELAWARE, INC., a Delaware corporation,)	
KURT VAN SCOY, and DONNA VAN SCOY,)	
)	
Defendants and)	
Counterclaim-Plaintiffs.)	

**MOTION BY DEFENDANTS
KURT VAN SCOY, DONNA VAN SCOY, AND
VAN SCOY DIAMOND MINE OF DELAWARE, INC.
FOR LEAVE TO FILE AN
AMENDED ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

Defendants Kurt Van Scoy, Donna Van Scoy and Van Scoy Diamond Mine of Delaware, Inc. move under Federal Rule of Civil Procedure 15 and Local Rule 15.1 for leave to file an amended answer, affirmative defenses and counterclaims alleging with specificity that Plaintiff Wayne Van Scoy does not own United States trademark registrations 1,140,711 and 1,140,958 and that those trademark registrations are invalid as a result of being renewed pursuant to fraudulently renewal applications.

Accompanying this motion is a supporting brief with an affidavit of Defendant Kurt Van Scoy as an appendix to the brief.

Pursuant to Local Rule 15.1 further accompanying this motion as an appendix to the supporting brief is a form of the pleading as sought to be amended and a copy thereof. Also accompanying this motion as an appendix to the supporting brief is a form of the pleading sought

to be amended indicating how that amended pleading differs from the original pleading, with deleted materials bracketed and added materials underlined.

Finally, accompanying this motion is a statement by defendants' pro hac vice admitted counsel under Local Rule 7.1.1 showing that defendants' counsel has made a reasonable effort to reach agreement with plaintiff's counsel on the matters set forth in the motion.

Defendants respectfully solicit grant of the motion and leave to file the amended answer, affirmative defenses and counterclaims that accompany this motion.

FOX ROTHSCHILD LLP

/s/ Sharon Oras Morgan

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Dated: January 23, 2006

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